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Petitioner's Docket No. U012930-9

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Arun Kumar SINHA

Application No.: 09/652,376

Group No.: 1621

Filed: August 31, 2003 *2000*

Examiner R. KEYS:

For: PROCESS FOR THE PREPARATION OF 1-PROPYL-2,4,5-TRIMETHOXYBENZENE
FROM TOXIC BETA-ASARONE OF ACORUS CALAMUS OR FROM CRUDE CALAMUS OIL
CONTAINING BETA-ASARONE

Mail Stop DAC

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

ATTENTION:

Petition Information

Crystal Park One, Suite 520

(M.P.E.P. § 1002.02(b), 6th ed., rev. 3)

PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED IN AVOIDABLY UNDER 37 C.F.R. § 1.137(a) *a*

NOTE: "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. § 1.137(c).

1 Applicant petitions for the revival of the above-identified application

Note: Extensions under 37 C.F.R. § 1.36 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of 37 C.F.R. § 1.136 can no longer be used then the application is abandoned when the unextended time for response has expired. See Notice of July 9, 1985 (1056 O.G. 60-691). Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival.

2. Nature of abandonment:

(Check appropriate box and complete)

☒ Based on a telephone communication from the PTO on September 9, 2003, and a Decision Dismissing Request mailed September 17, 2003, the undersigned has noted that the above-identified application is being forwarded to the Abandoned Files because the applicant's response to the Official Action has not been received within the statutory period or any extension requested therefor.

CERTIFICATE OF MAILING /TRANSMISSION(37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, P. O. Box 1450, Alexandria, VA 2313-1450

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office to fax number (703) 872-9452

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Signature

Date: September 23, 2003

SEP 26 2003

Janet I. Cord
(type or print name of person certifying)

OFFICE OF PETITIONS

(Petition for Revival of Unintentionally Abandoned Application—page 1 of 3) 11

09/26/2003 AWONDAF1 00000023 09652376

110.00 OP

01 FC:1452

- ☐ The undersigned has reviewed his records and noted that the response to the Official Action mailed _____ was not timely filed within the statutory period or any extension requested therefor.

3. Response filed:

NOTE: The response does not require a request and fee for extension of time as a condition of revival. Notice of July 9, 1985 (1056 O.G. 60-61).

A copy Notice of Appeal Mailed August 18, 2003.

- ☐ has been filed on _____.

☒ is enclosed herewith.

4. Showings from the relevant parties as to the causes of the unavoidable delays are filed herewith; said showing establishes that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unavoidable. 37 C.F.R. § 1.137(a)(3).

5. It will be seen from the attached showings that the processing procedures have been carefully reviewed and that steps have been taken to avoid repetition of the events which took place in this case so that a similar error will not be made in the future.

6. Terminal disclaimer 37 C.F.R. § 1.137(c):

- ☐ application filed before June 8, 1995

or ☐ design application

Abandonment took place on the following date _____ and:

- ☐ A terminal disclaimer equivalent to the period of abandonment of the application until the date of this petition is attached.

7. Status of applicant:

This application is on behalf of

- ☐ small business entity—fee \$55.00

☐ statement already filed on _____.

☐ statement attached.

- ☒ other than a small business entity—fee \$110.00

NOTE: The fee is set in 37 C.F.R. § 1.17(l).

8. Fee payment:

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 110.00
- ☒ Authorization is hereby made to charge any additional fees
- ☒ to Deposit Account No. 12-0425
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

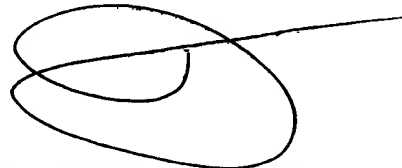
WARNING: Credit card information should *not* be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

9. *(complete the following, if applicable)*

- ☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).
- ☐ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).



SIGNATURE OF PRACTITIONER

Janet I. Cord

(type or print name of practitioner)

Reg. No.: 33,778

Tel. No.: (212) 708-1935

P.O. Address

Customer No.: 0014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Arun Kumar Sinha

Serial No.: 09/652,376

Group No.: 1621

Filed: August 31, 2000

Examiner: Keys, Rosalynd Ann

For: "Process For The Preparation Of 1-Propyl-2,4,5-Trimethoxybenzene From Toxic Beta-Asarone Of Acorus Calamus Or From Crude Calamus Oil Containing Beta-Asarone"

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
(37 C.F.R. 1.191)

NOTE: An appeal may be based on one rejection in a prior application and one rejection in a continuing application. Notice of Oct. 10, 1997, 62 F.R. 53131, at 53167.

NOTE: There is no requirement for a notice of appeal to: (1) be signed; or (2) identify the appealed claims. Notice of Oct. 10, 1997, 62 F.R. 53131, at 53167.

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed February 14, 2003, finally rejecting claims 1-7.

The item(s) checked below are appropriate:

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

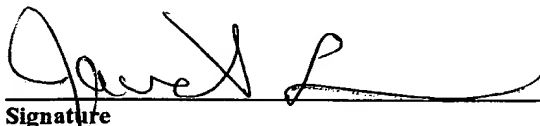
MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Date: August 14, 2003



Signature

Janet I. Cord

(type or print name of person certifying)

(Notice of Appeal from the Primary Examiner to Board—page 1 of 4) 9-6

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OFFICE OF PETITIONS

1. STATUS OF APPLICANT

This application is on behalf of

- ☒ other than a small entity.
☐ a small entity.

A statement:

- ☐ is attached.
☐ was already filed on _____.

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 C.F.R. 1.17(b), the fee for filing the Appeal Brief is:

- | | |
|---|----------|
| <input type="checkbox"/> small entity | \$160.00 |
| <input checked="" type="checkbox"/> other than a small entity | \$320.00 |

Notice of Appeal fee due \$320.00

3. EXTENSION OF TERM

NOTE: 37 C.F.R. § 1.704(b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

NOTE: The time periods set forth in 37 C.F.R. 1.191 are subject to the provision of § 1.136 for patent applications. 37 C.F.R. 1.191(d). (But see 37 C.F.R. 1.645 for extension of time in interference proceedings and 37 C.F.R. 1.550(c) for extension of time in reexamination proceedings).

(complete (a) or (b), as applicable)

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

- (a) ☐ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 410.00	\$205.00
<input checked="" type="checkbox"/> three months	\$ 930.00	\$465.00
<input type="checkbox"/> four months	\$1,450.00	\$725.00

Fee \$ 930.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- (a) ☐ An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.
Extension fee due with this request \$ _____

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$ 320.00

Extension fee (if any) \$ 930.00

TOTAL FEE DUE \$ 1250.00

5. FEE PAYMENT

☒ Attached is a check in the sum of \$ 1250.00.

☐ Charge Account No. _____ the sum of \$ _____.

A duplicate of this transmittal is attached.

6. FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in resuming the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G 31-33.

- ☒ If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 12-0425.

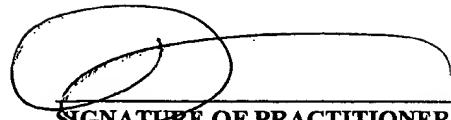
AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 12-0425.

Reg. No. 33,778

Tel. No.: (212) 708-1935

Customer No.: 0014



SIGNATURE OF PRACTITIONER

Janet I. Cord

(type or print name of practitioner)

P.O. Address

c/o Ladas & Parry
26 West 61st Street
New York, N.Y. 10023



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Arun Kumar SINHA

Serial No.: 09/652,376

Group No.: 1621

Filed: August 31, 2000

Examiner: R. Keys

For: PROCESS FOR THE PREPARATION OF 1-PROPYL-2,4,5-
TRIMETHOXYBENZENE FROM TOXIC BETA-ASARONE OF ACORUS
CALAMUS OR FROM CRUDE CALAMUS OIL CONTAINING BETA-
ASARONE

Attorney Docket No.: U 012930-9

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR MAILING DATE OF AUGUST 14, 2003

A mailing date of August 14, 2003, is requested for the attached Notice of Appeal. As indicated by the Certificate of Mailing thereon, the Notice of Appeal would have been mailed August 14, 2003, except for the power outage in New York City, which is in the Northeast, where the undersigned attorney who also signed the Certificate of Mailing was, on Thursday, August 14, 2003. This is, therefore, a statement indicating that such correspondence would have been filed on August 14, 2003, if it were not for the power outage.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office

Date: August 18, 2003

Signature

Janet I. Cord
(type or print name of person certifying)

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The Patent Office has designated the power outage on Thursday, August 14, 2003, a postal service interruption in the Northeast within the meaning of 37 CFR 1.6(e). This is shown by the attached copy of an Office of Patent Legal Administration << Pre-OG Notices << of August 15, 2003.

37 CFR 1.6(e) provides:

If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:

- (1) Promptly filed after the ending of the designated interruption or emergency; and
- (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

This correspondence is promptly filed Monday, August 18, 2003. The required statement has been made above. Therefore, the attached NOTICE OF APPEAL should be accorded a date of August 14, 2003.

Respectfully submitted,

Janet I. Cord
c/o Ladas & Parry
26 West 61st Street
New York, New York
Reg. No. 33778
Tel. No. (212) 708-1935



DECLARATION IN SUPPORT OF PETITION FOR REVIVAL OF AN
APPLICATION FOR PATENT ABANDONED UNAVOIDABLY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Arun Kumar SINHA

Group: 1621

Serial No: 09/652,376

Examiner: R. Keys

Filed: August 31, 2003

For: PROCESS FOR THE PREPARATION OF 1-PROPYL-2,4,5-TRIMETHOXYBENZENE
FROM TOXIC BETA-ASARONE OF ACORUS CALAMUS OR FROM CRUDE CALAMUS
OIL CONTAINING BETA-ASARONE

Attorney docket: U012930-9

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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

I, Janet I. Cord, a partner of the law firm of Ladas & Parry and an attorney
registered to practice before the United States Patent and Trademark Office declares that:

The power outage on August 14, 2003 led to the unavoidable delay in not filing
the Notice of Appeal for this application on August 14, 2003.

On Thursday, August 14, 2003, I signed the attached Notice of Appeal and
deposited it in the box that the New York Office of Ladas & Parry places mail that it is
being sent to the United States Patent and Trademark Office by first class mail. At about
5:00 p.m. each business day, the mail from this box is taken to our mail room and put in an
envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA
22313-1450. The package is weighed and a label with the proper amount of first class

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postage is produced from our postage meter. The label is then affixed to the package and the package is placed in a bin where it is picked up by a mail service to be transported to a United States Post Office.

At about 4:10 p.m. on August 14, 2003, the New York Office of Ladas & Parry along with the rest of New York City and a large part of the eastern United States lost electrical power. Because of the blackout, people were trapped in the elevators and my attention (I am member of our firm's emergency planning committee) and that of the mailroom was directed to getting the people out of the elevators and making sure that people were able to get home.

The United States Post Offices in the area closed and we were not able to put postage on the mail because the postage meter cannot work without electricity.

On Friday, August 15, 2003, the United States Patent and Trademark Office was called about the interruption of mail service and we were told that a notice would be posted on the website. A copy of the notice is attached. The notice did not include the further explanation that is included in the Notice dated August 19, 2003. We were informed that the interruption was still in effect on August 15, 2003.

On Monday, August 18, 2003, a request for mailing date of August 14, 2003 was sent to the United States Patent and Trademark Office along with the Notice of Appeal.

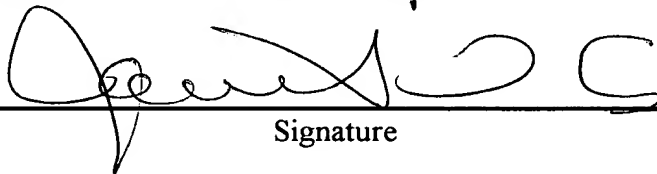
The personnel in our mailroom were instructed that in the event of future power outages, the box where first class mail to the Commissioner of Patents is put is to be checked and arrangements have been made to send the first class mail to the Commissioner of Patents.

On September 9, 2003, I received a telephone call from Jolene Chang who informed me that the Notices about Interruption of Mail applied only to United States Express Mail.

After consultation with my client, this declaration was prepared to explain the unavoidable delay in not filing the Notice of Appeal on August 14, 2003 and that the Notice of Appeal was filed on August 18, 2003 the first day after the postal emergency terminated. Because of the events it was necessary to contact my client and the accompanying Petition is being filed promptly after receiving instructions to proceed.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Signed this 23 day of September 2003


Signature



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES POSTAL SERVICE INTERRUPTIONS

Office of Patent Legal Administration << Pre-OG Notices << United States Postal Service Interruptions

The United States Postal Service (USPS) has informed the United States Patent and Trademark Office (USPTO) that as a result of the power outage on Thursday, August 14, 2003, a number of post offices throughout the Northeast and Midwest United States are closed or are not accepting mail. The USPTO is designating the interruption in the service of the USPS as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 C.F.R. 1.6(e). As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post the information on the USPTO's Internet Web site at www.uspto.gov and a final notice will be published in the Official Gazette.

Correspondence that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a statement that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service.

Inquiries concerning this notice may be directed to Eugenia Jones by e-mail at eugenia.jones@uspto.gov or telephone at 703-306-5586.

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